

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

UNITED STATES OF AMERICA §
§
v. § **CRIMINAL NO. 9:07-CR-41**
§
TYREN DEVON MATHEWS §

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On December 18, 2015, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Tyren Devon Mathews. The government was represented by Mary Ann Cozby, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Carlo D'Angelo.

Defendant originally pled guilty to the offense of Possession with Intent to Distribute More than 500 Grams of Cocaine, a Class B felony. The offense carried a statutory maximum imprisonment term of 40 years. The United States Sentencing Guideline range, based on a total offense level of 23 and a criminal history category of VI, was 92 to 115 months. On May 8, 2008, Chief Judge Ron Clark sentenced Defendant to 92 months imprisonment followed by 5 years of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug aftercare, and a \$100 special assessment fee. On January 9, 2015, Defendant completed the term of imprisonment and began his term of supervised release.

Under the terms of supervised release, Defendant was required to refrain from the purchase, possession, use, distribution, or administration of controlled substances. In its petition, the government alleges that Defendant violated his condition of supervised release by submitting a urine specimen that tested positive for marijuana on November 19, 2015, and admitting that he

used marijuana on or about November 19, 2015. The government represents that Fifth Circuit case law permits a court to find that illicit drug use constitutes possession for the offense.

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by possessing marijuana, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may (A) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of VI, the Guideline imprisonment range for a Grade C violation is 8 to 14 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated that they had come to an agreement to resolve the petition whereby Defendant would plead true to violating the condition of supervision referenced above by committing the acts alleged in the government's petition. The parties agreed on the appropriate sentence of 12 months and one day with no additional supervised release.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Tyren Mathews be committed to the custody of the Bureau of Prisons for a term of imprisonment of 12 months and 1 day with no supervised release to follow. The Court further **RECOMMENDS** that Defendant receive drug treatment.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to Chief Judge Ron Clark for adoption immediately upon issuance

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So ORDERED and SIGNED this 21st day of December, 2015.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE